

1 activated because they were on this list that said activated  
2 buildings?

3 A Yes.

4 Q Okay. So would it be fair to say that when you  
5 received this list you realized that Liberty had activated  
6 microwave paths for which no license had been obtained.

7 MR. BEGLEITER: Judge, can we have a maybe without  
8 the witness present the proffer on this? Because I think  
9 there's a -- something that Mr. Beckner is not showing the  
10 witness that would clarify things.

11 JUDGE SIPPEL: All right. Let's --

12 MR. BEGLEITER: Would Mr. Lehmkuhl excuse --

13 JUDGE SIPPEL: Would you step outside, please?

14 THE WITNESS: Surely.

15 JUDGE SIPPEL: Go off the record.

16 (Whereupon, a brief recess was taken.)

17 JUDGE SIPPEL: Back on the record.

18 MR. BEGLEITER: If Mr. Beckner is trying to prove  
19 that somehow Mr. Lehmkuhl should have known but didn't know  
20 what the time -- or knew at the time of the application that  
21 these were unauthorized paths, is that what you're getting  
22 at, Mr. Beckner?

23 MR. BECKNER: You give me credit for far more  
24 ambition than I have. I'm simply trying to establish when  
25 it was that this witness knew that they were activated paths

1 for which there was no license. It appears that he knew  
2 that some time after the applications for those paths were  
3 filed.

4 MR. BEGLEITER: Well, I don't know about that.  
5 That may be the missing piece here.

6 MR. BECKNER: If you want to prove that he knew it  
7 before they were filed, that's good.

8 MR. BEGLEITER: If I may, if I may, yes, this is a  
9 candor hearing and I'm going to be candid. If you take a  
10 look, Your Honor, at the -- unless I'm reading this wrong,  
11 Mr. Beckner, and please correct me, the Exhibit 25 which is  
12 July 17th, 1995 submission, okay? Let's cut this short. It  
13 was signed apparently by Mr. Nourain on the 17th. And given  
14 to the Commission on the 17th. Is that correct?

15 MR. BECKNER: You're asking me?

16 MR. BEGLEITER: The reason why I'm asking you is  
17 that your position, well, isn't that what you elicited from  
18 the witness.

19 MR. BECKNER: I have no reason to think that isn't  
20 correct.

21 MR. BEGLEITER: Okay. So the question is do you  
22 know on the 17th, okay? Isn't that the issue, Mr. Beckner?

23 MR. BECKNER: He answered that question. He said  
24 he didn't know.

25 MR. BEGLEITER: Okay. Well, because you didn't

1 show him a document. I think he said he wasn't sure if you  
2 recall. He wasn't definite. If you take a look at the STA,  
3 the STA was signed on the 17th. This is Exhibit 27. I just  
4 think since we're showing so many documents to the witness,  
5 it ought to be fairly be seen if we show every document  
6 that's related to this. These are data, these are signed by  
7 Peter Price on the 17th.

8 MR. BECKNER: You can work that out in redirect.

9 MR. BEGLEITER: But it seems we've been going  
10 around for an hour on this and --

11 JUDGE SIPPEL: He's trying to, yes, what  
12 Mr. Beckner's trying to do is see if there's a way of moving  
13 the pace along a little bit here.

14 MR. BEGLEITER: Well, that's not going to be --

15 JUDGE SIPPEL: On the 17th.

16 MR. BEGLEITER: It's signed by Mr. Price on the  
17 17th.

18 JUDGE SIPPEL: Well, it's Mr. Beckner's cross  
19 examination and I certainly would urge Mr. Beckner to pick  
20 up on any technique that might help move this along.

21 MR. BEGLEITER: My only point is, Your Honor, it  
22 is really unfair for the witness to be shown so many pieces  
23 of paper and then to be left in the lurch after two years to  
24 decide that he knew something on a certain date. Well, the  
25 paper's right in the file.

1 MR. BECKNER: Well, you lost me there, Bob. I  
2 don't understand how the fact that Peter Price signed  
3 something on the 17th, you know, what that says about what  
4 the witness knew. I mean, it's not Peter Price who's on the  
5 stand.

6 MR. BEGLEITER: I thought the witness testified  
7 that he prepared the STA. Didn't you ask him questions  
8 about preparing the STA?

9 MR. BECKNER: He said he prepared it.

10 MR. BEGLEITER: All right. Then I'm confused.

11 JUDGE SIPPEL: Well, I think that this is not  
12 leading to anything if you're going to resolve it. I'm  
13 going to let Mr. Beckner bring this out the way he wants to  
14 bring it out. I just wish we could move it along a little  
15 bit. The last thing we were talking about is this  
16 Exhibit 24, the activated buildings with flawed licenses.  
17 As I recall the testimony now, he received that from  
18 Mr. Price.

19 MR. BECKNER: Right.

20 JUDGE SIPPEL: And do you have a date set? Is  
21 there a fixed date that he got that from Mr. Price?

22 MR. BECKNER: He's not able to date that. He said  
23 some time after the applications were filed and before the  
24 STA requests were filed. That's the best he can do. And  
25 that's a pretty narrow window of time. I was just about

1 done before Mr. Begleiter --

2 JUDGE SIPPEL: What would be that narrow window of  
3 time?

4 MR. BECKNER: Well, the applications were filed on  
5 the 17th.

6 JUDGE SIPPEL: Okay.

7 MR. BEGLEITER: And the STA's the 24th.

8 MR. BECKNER: And the STA's were filed on the  
9 24th.

10 MR. BEGLEITER: Signed on the 17th.

11 MR. BECKNER: Well, I mean --

12 MR. BEGLEITER: Prepared and signed on the 17th.

13 Signed on the 17th. Obviously, prepared the 17th or  
14 earlier.

15 JUDGE SIPPEL: All right. Well, why don't you  
16 bring to his attention that the 17th, the date of the 17th  
17 to which Mr. Price has obviously committed himself and see  
18 if that can jog his memory sufficiently or give him  
19 confidence enough in the information here to be able to pin  
20 it down or at least be able to pin it down better than he  
21 has.

22 MR. BECKNER: Okay. That's fine. I'll be glad to  
23 do that. And as I say, it's certainly possible that  
24 Mr. Price signed this thing on the 17th and then it sat on  
25 this desk for a couple of days and went back --

1 JUDGE SIPPEL: Mr. Price is going to be here. So  
2 we can -- I'm not being critical. It's very, very difficult  
3 to pull this together through one witness. And it's true  
4 it's two years after the event. But I'm assuming that he  
5 has looked at some of these issues since 1995 just by virtue  
6 of the fact that he's been deposed among other things. So  
7 this is not totally, totally new to him.

8 MR. BEGLEITER: I don't recall if he was deposed  
9 on this issue.

10 JUDGE SIPPEL: All right. That's fair.

11 MR. BEGLEITER: And I think that what you're doing  
12 is Mr. Beckner's saying do you remember a specific time for  
13 this and a specific time for that, and a specific time for a  
14 third thing, all of which are within about two weeks of each  
15 other. And I just think if you're going to do that, the  
16 fair thing is to show the man the documents and then he  
17 understands. Instead of speculating, he has something in  
18 front of him that could fix his times.

19 JUDGE SIPPEL: All right. Well, it's quarter past  
20 4:00. Let's take another shot at this and see if we can get  
21 this phase fixed fairly promptly. I think your suggestions  
22 have been helpful, Mr. Begleiter. Let's go off the record  
23 and bring the witness back.

24 (Whereupon, a brief recess was taken.)

25 JUDGE SIPPEL: Back on the record. What happened

1 in your absence, Mr. Lehmkuhl, is that there was  
2 conversation between Mr. Begleiter and Mr. Beckner with  
3 respect to how by looking at two or three of these documents  
4 together perhaps you'll be able to focus on this timeframe  
5 of your knowledge in a more specific and in a quicker  
6 fashion. Let's see what Mr. Beckner does.

7 BY MR. BECKNER:

8 Q Okay. Mr. Lehmkuhl, before we took the break, I  
9 was asking you about the 24 in this so-called A list. And I  
10 think you said that you discussed it with Mr. Price after  
11 you received it. And I was trying to see if we could get a  
12 more precise fix on when you did receive it. I want to  
13 direct your attention to another document that may assist  
14 you in that regard. If you turn back again to Exhibit 27  
15 which is the STA request that you filed July 24th.

16 JUDGE SIPPEL: What's the tab of that one?

17 BY MR. BECKNER:

18 Q That's Tab 27. And if you in particular turn to  
19 005 of the exhibit which I think we looked at a minute ago  
20 which is a signature page with what appears to be Peter  
21 Price's signature on it. And you notice there's a date  
22 there of 7/17/95.

23 A Yes.

24 Q And the question is I assume -- did you get this  
25 signed signature page back from Mr. Price on or about the

1 17th?

2 A Yeah, it probably would have been on the 18th.

3 Q Okay. And so, and of course the -- I think you've  
4 testified that the entire STA request in draft form went up  
5 to Mr. Price for his review, not just the signature page.

6 A Yes.

7 Q Okay. And so that would suggest would it not that  
8 as of the 17th of July you were aware, you were informed  
9 that at least for this particular path identified here  
10 Liberty had already turned on before it was authorized.

11 A Yes.

12 Q Okay. And you think then that you received this  
13 activated building for flawed licenses list then some time  
14 before the 17th based on looking at this document, this  
15 other document, the STA request?

16 A Frankly, I don't know -- I'm really not sure when  
17 I received this A list.

18 JUDGE SIPPEL: That's the Tab 24 list.

19 THE WITNESS: Yes, Tab 24. I really don't know  
20 when I received it. It could have been before I filed the  
21 application. It could have been after. I'm really not  
22 sure.

23 BY MR. BECKNER:

24 Q Okay. I mean, we have a date here of a  
25 coordination date of July 3rd, 1995 at the top of the list.



1 So can we assume that you received it after July 3rd?

2 A Yes, I think so.

3 Q All right. So some time between July 3rd and July  
4 17th, would that be the best fix we can get on when you  
5 received this?

6 A I would say with respect to July 3rd, I think that  
7 would be fair. I don't know. I could have received this  
8 after July 17th. It's entirely possible.

9 Q Okay.

10 A I have no idea if I relied on this list in  
11 preparing the STA.

12 Q All right. There may have been some other source  
13 of information you had that told you that this particular  
14 path was already in operation?

15 A Yes, that's correct.

16 Q All right. Can you tell us what other source of  
17 information --

18 A I don't recall.

19 Q Could Mr. Barr have been the one to tell you that?

20 A Possibly. I don't recall.

21 JUDGE SIPPEL: Is that a question that doesn't  
22 really go to the heart of the matter, but why is  
23 Mr. Harding, counsel for Time Warner, copied on these  
24 documents?

25 MR. BEGLEITER: Because he was part of the

1 proceedings.

2 JUDGE SIPPEL: This is in the context, the STA is  
3 filed in the context of petition to deny?

4 MR. BEGLEITER: Well, the petition to deny was  
5 filed in the context of the license. So everything that had  
6 to do with license Mr. Harding was cc'd on. The license the  
7 STA --

8 JUDGE SIPPEL: I understand what you're telling  
9 me. All right. Is Mr. Harding in court today?

10 MR. BECKNER: No, Mr. Harding's my partner, but he  
11 doesn't do this sort of thing.

12 JUDGE SIPPEL: All right.

13 MR. BECKNER: Your Honor, I'm through with my  
14 questioning of this witness.

15 JUDGE SIPPEL: Mr. Holt.

16 MR. HOLT: Thank you, Your Honor.

17 BY MR. HOLT:

18 Q Mr. Lehmkuhl, good afternoon. I'm Christopher  
19 Holt. We haven't had occasion to meet. I'm counsel for  
20 Cablevision of New York - Phase I. Please, if any of the  
21 questions I ask you are confusing, let me know and I'll be  
22 happy to rephrase them. I'd like to start by asking you  
23 some questions regarding the surreply filed by Time Warner -  
24 - I mean, filed by Liberty May 17th, 1995. I believe that's  
25 Time Warner Cablevision Exhibit 18. If you could turn to

1 that. I'm a little confused about a conflict I perceive in  
2 your testimony. I'd understood in response to questioning  
3 by the Judge, the presiding Judge, that you had said that  
4 you first learned about the specific paths that had been  
5 placed in operation without authorization as a result of the  
6 preparation of the May 17th surreply, is that correct?

7 A I believe so, yes.

8 Q And so did you provide assistance -- I presume you  
9 provided assistance to Mr. Barr in preparing that surreply.

10 MR. BEGLEITER: That was asked and answered, Your  
11 Honor.

12 THE WITNESS: No, I did not.

13 JUDGE SIPPEL: Wait a minute. There's an  
14 objection.

15 MR. BEGLEITER: That was asked and answered, Your  
16 Honor.

17 THE WITNESS: I'm sorry.

18 JUDGE SIPPEL: Well, if I'm not mistaken what I  
19 understand Mr. Holt is trying to do is just put the witness  
20 in a timeframe.

21 MR. BEGLEITER: Okay.

22 JUDGE SIPPEL: And try to frame the issue a bit.  
23 He wasn't really, this is not a -- well, go ahead. I'm  
24 going to overrule the objection.

25 //

1 BY MR. HOLT:

2 Q You provided no assistance to Mr. Barr whatsoever?

3 A Not that I recall.

4 Q Prior to the submission of this May 17th surreply?

5 A Not that I recall.

6 Q Are you the person with day-to-day responsibility  
7 from working with Liberty prior to this May 17th surreply  
8 concerning OFS licensing matters, correct?

9 A Yes.

10 Q Did Mr. Barr confer with you at all prior to  
11 submitting this surreply regarding Liberty's practices with  
12 respect to the submission of --

13 A It's possible that he did, yes. I mean, yes.

14 Q Well, do you have a recollection of conferring  
15 with him prior to the submission of the surreply?

16 A Not specifically with reference to the surreply,  
17 no.

18 Q But you believe that he did speak with you?

19 A I don't recall any specific conversation that we  
20 had.

21 Q When you say you don't recall any specific  
22 conversation, do you recall generally who had conversations  
23 or more conversations with Mr. Barr?

24 A I don't recall any conversations that related  
25 specifically to the surreply in preparation for the

1 surreply. It's possible, yes, I could have had some  
2 conversations.

3 Q Well, you had learned through Time Warner's  
4 May 5th reply and allegations had been made about  
5 unauthorized OFS facilities, correct?

6 A Yes.

7 Q And this May 17th surreply was being prepared. I  
8 want you to focus specifically on that 12 day period, okay?  
9 Think back to that and I'd like you to provide your best  
10 recollection of the sequence of events that led up to the  
11 submission of the surreply during that two week period.

12 A Mr. Barr was responsible for preparing the  
13 surreply. I don't recall assisting him in any significant  
14 way with this. I am sure it's possible I may have assisted  
15 him in some insignificant way, but I don't specifically  
16 recall.

17 Q You recall reviewing the surreply at some point,  
18 correct?

19 A At some point, yes.

20 Q Ordinarily when you're at your firm involved in a  
21 matter and a pleading that's filed relating to that matter,  
22 are you given a copy of the pleading the day it's filed?

23 JUDGE SIPPEL: That's really irrelevant. I mean,  
24 ordinarily --

25 MR. HOLT: I, I --

1 JUDGE SIPPEL: We all have an understanding of  
2 what -- obviously, Mr. Barr presumably is going to show this  
3 when he's going to file on something like this to somebody  
4 who's been intimately involved with the details. He'd have  
5 him at least look it over. I'm going to just assume that  
6 that happened. But that doesn't, that's a far cry from  
7 where you're trying to get this witness.

8 BY MR. HOLT:

9 Q Is that a fair assumption, Mr. Lehmkuhl?

10 A What?

11 Q The Judge's assumption.

12 A Which is?

13 Q Assume that you would have looked at this document  
14 before it was filed.

15 A I suppose so, yes.

16 Q Do you know whether the surreply was discussed  
17 with any attorneys, any attorneys that had been retained by  
18 Liberty other than Pepper & Corazzini prior to the time it  
19 was filed?

20 A I don't know.

21 JUDGE SIPPEL: Well, wasn't the Ginsburg law firm,  
22 weren't they part of the representation, the legal  
23 representation, at this time?

24 THE WITNESS: I think so. But I had no -- as far  
25 as preparing this, I had no hand in it. So as far as

1 discussing it with any other law firm, I wouldn't have any  
2 knowledge of that.

3 JUDGE SIPPEL: This is May 17th, right?

4 THE WITNESS: Yes.

5 JUDGE SIPPEL: Well, your firm is filing something  
6 that's, I mean, the representations of Mr. Nourain would be,  
7 would certainly cover, at least cover the subject matter  
8 that you had been working with Mr. Nourain over quite some  
9 period of time.

10 THE WITNESS: Yes.

11 JUDGE SIPPEL: Well, it would only lead, it would  
12 only be reasonable to assume that if a partner in your law  
13 firm is going to file a document with the Commission under  
14 oath, that covers that period of time and covers the same  
15 subject matter, that he's going to show it to you and say do  
16 you see anything that I should know about or something of  
17 this nature. That's the way the world works.

18 THE WITNESS: Yeah, but I think that's safe to  
19 assume. The reason I'm unsure is that I don't recall  
20 specifically reviewing this before it was filed. It's  
21 entirely possible, but I don't recall.

22 BY MR. HOLT:

23 Q Okay. Now, okay. Let me focus you on a different  
24 period of time. Get back to the conversation you had with  
25 Mr. Nourain prior to your April 28th memorandum. You

1 indicated I believe that he told you to file STAs with  
2 respect to a number of paths, is that right?

3 A Yes.

4 Q And he provided you with, he identified for you  
5 which paths he wanted to file STAs --

6 A Yes.

7 Q Do you recall during that conversation discussing  
8 with him any information about which of the paths that he  
9 was listing to you were licensed and which were not? I'm  
10 sorry, which of them were subject to petitions to deny by  
11 Time Warner and which of them were not?

12 A I don't recall specifically, but I would imagine I  
13 would have said that they all were subject to petition.  
14 That was the whole reason why we weren't asking for the STA  
15 to begin with.

16 Q Okay. Well, my curiosity is peaked by the fact  
17 that there's an address that is listed in the HDO. If you  
18 want to turn to Exhibit 30, I'm sorry, if you would turn to  
19 your April 28th memorandum which is exhibit --

20 JUDGE SIPPEL: 34 isn't it?

21 MR. HOLT: 34. Thank you, Your Honor.

22 BY MR. HOLT:

23 Q If you look to the second page of the list that's  
24 appended to the memo, do you have that before you?

25 A Yes.



1 Q Do you see that there's an address there, 2727  
2 Palisades which is four up from the bottom? Do you see  
3 that?

4 A Wait a minute. Which page are you on?

5 Q The second page of the list.

6 A 001.

7 MR. BEGLEITER: 004.

8 THE WITNESS: 004. I don't have a 004.

9 MR. BEGLEITER: The last exhibit, Mr. Lehmkuhl.

10 THE WITNESS: Oh, on this one, okay. There we go.  
11 I have it, yes.

12 BY MR. HOLT:

13 Q Okay. Now, that indicates does it not that --  
14 there's no date entered there under PD day is there?

15 A That's correct.

16 Q And that would suggest to you that there was no  
17 petition to deny filing as of the date of this memorandum,  
18 is that correct?

19 A Yes, that's correct.

20 Q And are you aware of the area where 2727 Palisades  
21 is located?

22 A It's I believe outside of, I believe it's within  
23 Cablevision's franchise area.

24 Q Okay. So it was not a received location that  
25 would have been subject to a petition denied by Time Warner,

1 correct?

2 A That's correct.

3 Q And in fact a petition to deny was not filed  
4 against that path by Cablevision until November of 1995,  
5 isn't that true?

6 A I believe so, yes.

7 Q So there was no petition to deny pending against  
8 2727 Palisades that was delaying the licensing as of the  
9 date of your 28th memo, correct?

10 A Yes, that's correct.

11 Q Now, if you look to Exhibit 30 which is the  
12 Appendix A to the HDO, do you have that before you?

13 A Yes.

14 Q And you see that, if you look at the bottom, you  
15 see the 2727 Palisades Ave. address again.

16 A Yes.

17 Q And if you notice in the first entry, the license  
18 was filed for that path on March 24th, 1995, correct?

19 A That's correct.

20 Q Which post-dated the March 21st date that you  
21 corrected the emission designators problems.

22 A Yes.

23 Q Now, it's fair to say then that this 2727  
24 Palisades address was not subject to any emission designator  
25 problems.

1 A I believe so, yes.

2 Q Okay. So my question to you is why is it that you  
3 were discussing with Mr. Nourain filing an STA for 2727  
4 Palisades Ave. prior to April 28th, 1995 when it wasn't  
5 subject to a petition to deny by Time Warner and didn't have  
6 any emission designator problems?

7 A I'm not sure. If I may be permitted to ask a  
8 question, was 2727 Palisades one of the May 4th STAs that I  
9 filed?

10 Q Well, let me refresh your recollection with  
11 Mr. Nourain on the subject, okay? If I can refer you to  
12 Time Warner Cablevision Exhibit 35.

13 MR. BEGLEITER: Judge, the answer is right here on  
14 a piece of paper, why --

15 JUDGE SIPPEL: Wait a minute.

16 BY MR. HOLT:

17 Q Do you have that before you?

18 A Yes.

19 Q Okay. Take a moment to review it if you would.  
20 It's an April 26, 1995 memorandum from Mr. Nourain to his  
21 boss Mr. Edward Milstein.

22 MR. BEGLEITER: You know, why are we speculating  
23 as to the date when it's right here? I don't get it.

24 JUDGE SIPPEL: We've got an objection here.

25 MR. BEGLEITER: Yeah, it's unfair to the witness.

1 MR. HOLT: Your Honor, I'm not speculating. This  
2 is -- I'm not speculating as to the date of --

3 MR. BEGLEITER: We know it's already in the HDO.

4 JUDGE SIPPEL: Well, he's got the list of the --  
5 he's got it in front of him, doesn't he?

6 MR. BEGLEITER: Right. I'm not asking him that  
7 question, Your Honor. I'm proceeding with my examination if  
8 Your Honor will allow me to do that.

9 JUDGE SIPPEL: All right. This is -- go ahead.

10 MR. HOLT: Thank you.

11 BY MR. HOLT:

12 Q Mr. Lehmkuhl, have you taken a moment to review  
13 that?

14 A Yes.

15 Q Okay. Now, if you'll look towards the bottom, the  
16 third entry from the bottom, it's the second typewritten  
17 entry, you see 2727 Palisades Avenue listed there.

18 A Yes.

19 Q And if you, if you -- you proceed up and you look  
20 at the second paragraph, it discusses, it indicates that a  
21 Special Temporary Authority is being filed by FCC attorney  
22 Pepper & Corazzini for the following paths, right?

23 A Yes, it does.

24 Q 2727 Palisades was one of the paths that as of  
25 April 26, '95 you had discussed with Mr. Nourain filing an

1 STA for?

2 A I don't think that necessarily follows.

3 Q Why is it do you think that Mr. Nourain would have  
4 been writing to his boss that STAs were going to be filed  
5 for a path including 2727 -- for a number of paths including  
6 2727 Palisades Avenue if you hadn't discussed that with him?

7 A I have no idea.

8 JUDGE SIPPEL: Have you seen this document before  
9 at Tab 35?

10 THE WITNESS: No, I have not.

11 MR. BEGLEITER: Judge, again, I hate to interrupt,  
12 but it's, I think this is really unfair and I do out of the  
13 presence of this witness when the information is right in  
14 front of you not to show it to the witness. He asked a  
15 question and Mr. Holt didn't answer it. That would  
16 straighten the whole matter out. I don't want to say  
17 anything, but --

18 MR. HOLT: I will represent to that if you think  
19 the witness is confused, 2727 Palisades was not filed on May  
20 -- STA was not filed on May 4th.

21 MR. BEGLEITER: That's the question be asked.  
22 That's all I'm saying.

23 MR. HOLT: That's not the question I'm asking and  
24 I'm conducting the examination.

25 JUDGE SIPPEL: Okay. I think he's -- I think he's

1 looking for some information other than just the STA was out  
2 to play.

3 MR. BEGLEITER: No, he's asking, the questions to  
4 Mr. Lehmkuhl, Mr. Lehmkuhl I think would have his answers,  
5 would have more clear answers if he knew what date the STA  
6 was filed. It's the question that Mr. Lehmkuhl asked, not  
7 me. He said I'd like to know what date the STA was filed.

8 JUDGE SIPPEL: Well, I don't see -- this is not  
9 getting it done. The document that Mr. Holt was  
10 cross-examining on had to do with communication between  
11 Mr. Nourain and his superiors. That was the last document  
12 that we were talking about.

13 MR. BEGLEITER: I made my statement before he  
14 showed him that document. The question was -- he showed him  
15 number 30.

16 JUDGE SIPPEL: Yes, that's correct.

17 MR. BEGLEITER: He showed him number 30 and he  
18 said was that one of the STAs that you discussed that were  
19 filed on May 4th? Is that correct, Mr. Holt?

20 MR. HOLT: Your Honor, I don't understand the  
21 basis of the objection.

22 JUDGE SIPPEL: I'm having trouble following it  
23 too.

24 MR. BEGLEITER: I hope you'll see it later.

25 JUDGE SIPPEL: Well, certainly that's why we have

1 replies and things like that. Let's get this line finished  
2 up. Are you completed with this now?

3 MR. BEGLEITER: No, Your Honor.

4 JUDGE SIPPEL: He's never sen this document.

5 MR. HOLT: I understand. This is a recently --

6 JUDGE SIPPEL: This is an internal document from  
7 Liberty and this witness has not seen it and he didn't have  
8 any part in its creation of Exhibit 35? Yeah.

9 MR. HOLT: I'm asking the witness --

10 BY MR. HOLT:

11 Q Mr. Lehmkuhl, does this memorandum, now that  
12 you've had a chance to review it, make sure you review the  
13 second page if you would. Does this memorandum lead you to  
14 conclude that your conversation with Mr. Nourain occurred  
15 prior to April 26th, 1995?

16 A No, it does not.

17 Q So it doesn't refresh your recollection as to when  
18 you spoke with Mr. Nourain?

19 A No.

20 Q Can you relate to me when you discussed the issue  
21 of filing STAs with Mr. Barr?

22 A Filing STAs in what context?

23 Q Well, your memorandum of April 28th refers to a  
24 filing of STAs.

25 A Yes.

1 Q And you testified earlier that you discussed that  
2 recommendation with Mr. Barr --

3 A Yes.

4 Q Do you recall when that conversation with Mr. Barr  
5 occurred?

6 A Not specifically. I can assume that it occurred  
7 some time before I wrote the memo, but I don't recall  
8 specifically when I had that conversation.

9 Q Do you recall approximately when in relation to  
10 the memo?

11 A I would say it was probably within a week of the  
12 memo.

13 Q And do you recall -- did you sit down with  
14 Mr. Barr face-to-face and talk about the issue of filing  
15 STAs for these pending applications?

16 A Yes.

17 Q Approximately how long did the conversation occur?

18 A I can't recall.

19 Q Do you recall doing any legal research on the  
20 issue?

21 A No.

22 Q You don't recall or you didn't conduct any  
23 research?

24 A I don't recall.

25 Q Did you discuss the issue of filing the STAs --



1 was this a single meeting you had with Mr. Barr or was it an  
2 issue that you discussed over a period of meetings?

3 A I don't recall it. I'm sure there was one  
4 discussion where we discussed that -- there was one  
5 discussion where we discussed going forward with filing the  
6 STAs where we had previously had thought we would not file  
7 the STAs.

8 Q And there came a time that you communicated the  
9 recommendation to go forward with the STAs?

10 A Yes, in the April 28th memo.

11 Q Okay. Now, looking at this April 28th, 1995 memo  
12 that Mr. Nourain was sending to his boss which makes  
13 reference to the fact that special temporary authorities  
14 being filed by our FCC attorney.

15 JUDGE SIPPEL: That's Tab 35.

16 MR. HOLT: Right.

17 BY MR. HOLT:

18 Q By Pepper & Corazzini for the paths. Is that what  
19 led you to believe that your recommendation concerning  
20 proceeding with STAs occurred prior to the date of this  
21 memorandum, April 26th, 1996[sic]?

22 A It would be purely speculative for me. I mean, I  
23 communicated to Behrooz that we would go forward with filing  
24 these STAs on April 28th. So I don't know where, where he  
25 got this.